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September 7, 1993

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N. W.
Washington, D. C. 20554

Re: MM Docket No. 93-107

Dear Mr. Caton:

On behalf of ASF Broadcasting Corporation, applicant in the above-referenced proceeding, there are transmitted herewith an original and four (4) copies of its **OPPOSITION TO MOTION TO ENLARGE ISSUES**.

Should additional information be necessary in connection with this matter, please communicate with this office.

Very truly yours,


James A. Koerner
Counsel for
ASF BROADCASTING CORPORATION

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Enclosures

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**Before the
Federal Communications Commission
Washington, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Application of

MM Docket No. 93-107

DAVID A RINGER
et al.

File Nos. BPH-911230MA et al.

For Construction Permit for
New FM Station on Channel 280A
at Westerville, Ohio

TO: Administrative Law Judge
Walter C. Miller

OPPOSITION TO MOTION TO ENLARGE ISSUES

ASF Broadcasting Corporation ("ASF"), by its attorneys, hereby opposes the Motion to Enlarge Issues filed in this proceeding by Ohio Radio Associates, Inc. ("ORA"). In response to that motion, the following is submitted:

ORA erroneously contends that there were no written cost estimates at the time of certification of the application. However, the Deposition testimony of Ardeth S. Frizzell, attached to ORA's own Motion, belies that assertion (Dep. Tr. 72). See, also, the Motion to Enlarge filed by Shellee Davis which acknowledges the existence of a budget at the time of certification and filing.

The determination to use a directional antenna and to specify auxiliary power arose after the application was filed, by the date for amending as a matter of right. As noted in the attached Declaration of Ardeth S. Frizzell, despite the fact she did not know the precise cost of such equipment, having been in the business, she realized that it, as with other equipment,

could be purchased on terms or leased. She also realized that with a total of over \$200,000 available, and three months operating expenses totalling under \$90,000, there were plenty of available funds to be used for these purposes. Further, Thomas J. Beauvais, ASF's non-voting shareholder has specifically agreed that any of the funds to be made available by him could be used for the acquisition of emergency generator units and/or a directional antenna.

ORA's request for a financial misrepresentation issue is premised solely upon its false allegation that there were no cost estimates at the time of certification. Thus, this portion of the request must be totally rejected.

With respect to ORA's request for a financial qualifications issue, ORA has similarly failed to acknowledge the existence of the budget at the time of certification. To the extent the requested issue seeks to inquire into whether ASF is presently financially qualified, the Declarations attached hereto convincingly demonstrate that it is. Accordingly that issue request must also be denied.

In sum, the Motion to Enlarge Issues filed by Ohio Radio Associates should be categorically denied.¹

Respectfully submitted,

ASF BROADCASTING CORPORATION

By 
James A. Koerner
Its Attorney

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& HOCHBERG, P. C.
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(202) 686-3200

SEPTEMBER 7, 1993

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¹The Declarations attached hereto are facsimilies; the originals will be filed upon receipt.

DECLARATION

I, Ardeth S. Frissali, do hereby declare under penalty of perjury as follows:

I am President of ASF Broadcasting Corporation, an applicant for a new FM station at Westerville, Ohio.

At the time I signed and filed the application, in December of 1991, I had in my possession a written budget which included three months of operation, using facilities to be leased from Mid-Ohio Communications, Inc. I also had in my possession a balance sheet of Thomas J. Beauvais, the non-voting stockholder, demonstrating that he had sufficient funds to supply what was needed and which he agreed to provide. I also knew how much I had in my bank accounts, as well as what I was to receive from Station WBSY as termination pay. Thus, I knew that I had, and would be receiving sufficient funds to contributed what was required of me. I have now contributed the total amount required under the Shareholders Agreement.

At some time after the application was filed, it was recommended that ASF specify a directional antenna and auxiliary power. Accordingly, the application was amended to specify these items. Although I did not, at the time of the amendment, know specifically how much these items would cost, I knew that they, as with other equipment, could be leased or purchased on terms. Further, I knew that between Mr. Beauvais and me, over \$200,000 was available, whereas three months of operation, using the leased equipment, would cost less than \$90,000. Accordingly, I believed

then, and believe now, that more than sufficient amounts are available.

Mr. Beauvais has agreed that any funds specified in the Shareholders Agreement could be used, if necessary, to purchase a directional antenna and/or auxiliary power units.

Dated this 7 day of September, 1993:


Ardeth S. Frisall

DECLARATION

I, Thomas J. Beauvais, do hereby declare under penalty of perjury as follows:

I am the non-voting shareholder of A&F Broadcasting Corporation, applicant for a new FM station at Westerville, Ohio.

I have agreed that any of the funds which I have agreed to make available, whether before or after grant, could be used, if necessary, for the purchase of a directional antenna and/or auxiliary power units for the proposed station.

Dated this 07 day of September, 1993.

Thomas J. Beauvais
THOMAS J. BEAUVAIS

Post-it [®] brand fax transmittal memo 787		P. 01	
To: <i>Mr. R. R. R.</i>	From: <i>T. J. Beauvais</i>		
<i>W. K. C. H. PC</i>	Co: <i>T. J. Beauvais</i>		
Dept:	Phone:		
Fax: <i>313-686-8882</i>	Phone: <i>313-358-3311</i>		

CERTIFICATE OF SERVICE

I, Bernadette T. Clark, a secretary in the law offices of Baraff, Koerner, Olender & Hochberg, P. C., do hereby certify that copies of the foregoing **OPPOSITION TO MOTION TO ENLARGE ISSUES** were sent this 7th day of September, 1993, via first class mail, postage prepaid to the following:

Administrative Law Judge Walter C. Miller*
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Bernadette T. Clark

*Hand Deliver